

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-108-KAJ
	)	
VAN SCOY DIAMOND MINE OF	)	
DELAWARE, INC.,	)	
KURT VAN SCOY AND	)	
DONNA VAN SCOY	)	
Defendants.	)	

**PLAINTIFF WAYNE VAN SCOY'S MOTION  
FOR SUMMARY JUDGMENT OF INFRINGEMENT  
AND WILLFUL INFRINGEMENT BY DEFENDANTS**

Plaintiff moves for summary judgment in favor of Plaintiff and against Defendants pursuant to F.R.Civ.P. 56 that Defendants have infringed Plaintiff's marks cover by Reg. Nos. 1,140,958 and 1,140,711. Plaintiff further moves for summary judgment that the infringement has been willful. The moving papers show there are no disputed facts and as a matter of law judgment should be entered in favor of Plaintiff and against Defendants.

ASHBY & GEDDES

/s/ John G. Day

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Dated: October 25, 2005

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FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-108-KAJ
	)	
VAN SCOY DIAMOND MINE OF	)	
DELAWARE, INC.,	)	
KURT VAN SCOY AND	)	
DONNA VAN SCOY	)	
Defendants.	)	

**[PROPOSED] ORDER GRANTING PLAINTIFF WAYNE VAN SCOY'S  
MOTION FOR SUMMARY JUDGMENT OF INFRINGEMENT BY  
DEFENDANTS AND WILLFUL INFRINGEMENT BY DEFENDANTS**

This matter comes before the Court on Plaintiff's Motion for Summary Judgment of infringement by Defendants and of willful infringement by Defendants. Pursuant to Section 56(c) of the Federal Rules of Civil Procedure, there exists no genuine issue of fact material as to Defendants' infringement and Defendants' willful infringement. Furthermore, even when all of evidence and inferences drawn therefrom are viewed in the light most favorable to Defendants, the evidence shows that Plaintiff can establish the existence of every element for which it has the burden of proof at trial. For these reasons, it is hereby

**ORDERED and ADJUDGED** that this motion is **GRANTED** and that Summary Judgment is hereby entered against Defendants of infringement of the mark VAN SCOY DIAMOND MINE covered by Federal Registration Nos. 1,140,958 and 1,140,711, and this infringement has been willful.

IT IS SO ORDERED

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KENT A JORDAN  
United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25<sup>th</sup> day of October, 2005, the attached **PLAINTIFF**  
**WAYNE VAN SCOY'S MOTION FOR SUMMARY JUDGMENT OF INFRINGEMENT**  
**AND WILLFUL INFRINGEMENT BY DEFENDANTS** was served upon the below-named  
counsel of record at the address and in the manner indicated:

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VIA U.S. MAIL

*/s/ John G. Day*

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John G. Day (#2403)